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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,579	01/14/2000	Bruce A. Fogelson	77752	8561

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/483,579

Applicant(s)
Fogelson

Examiner
Steven McAllister

Art Unit
3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 29, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the FTD webpage (FTD) in view of Fino et al (5,991,769).

FTD shows providing a first website by a third party website provider (FTD) for use by the customer in selecting product options available through a contractor comprising the individual florist; receiving a selection of an option from the customer, and collecting a fee for the options selected. FTD does not show that the options offered in the building context. Fino et al shows providing and selecting options in this context. It would have been obvious to one of ordinary skill in the art to modify the method of FTD by providing the service in this context in order to facilitate the enable the viewing and selection of options without the need for model houses.

As to claim 2, it is noted that FTD show password protection.

As to claim 3, FTD in view of Fino et al show all elements of the claim except collecting the fee or commission from the contractor (florist). However, it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the art to further

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modify the method of FTD by collecting the fee from the contractor to gain more customers by eliminating the explicit fee charged to the customer.

As to claim 5, it is noted that the webpage offers a plurality of options relating to the feature for selection, for instance offering a plurality of options on the type of rose arrangement.

As to claim 6, it is noted that the webpage provides a plurality of webpages, each related to a feature.

As to claim 7, FTD in view of Fino et al show all elements of the claims except providing a hyperlink to a manufacture. However, it is notoriously old and well known in the art to provide a hyperlink from a page where an item is being offered to a manufacture web page, for instance to provide more information on the item. It would have been obvious to one of ordinary skill in the art to further modify the method of FTD by providing a hyperlink to a manufacturer web page in order to provide further information on an item offered.

Alternatively, as to claims 7 and 8, FTD in view of Fino et al show all elements of the claims except providing a link to a manufacturer and charging a commission for items sold as a result of the linking. However, it is notoriously old and well known in the art to provide a link to manufacturers and sellers of items and collecting a commission based on a sale at the manufacture's/seller's website. It would have been obvious to one of ordinary skill in the art to further modify the method of FTD by doing so in order to increase revenue.

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As to claim 9, it is noted that FTD in view of Fino et al show providing a second website comprising the contractor (florist) website which is capable of having customer information entered by the contractor.

As to claims 10 and 12, it is noted that feature or customer identifying information can be entered.

As to claim 11, it is noted that FTD in view of Fino et al show providing a website that anyone, including a party designated by the customer, can access the second website.

As to claim 13, it is noted that FTD in view of Fino et al show password protecting the site comprising password protecting the customer account access.

As to claim 14, it is noted that an advertisement of a vendor is shown on the site.

As to claim 15, FTD in view of Fino et al show all elements of the claim except receiving payment for displaying an ad. However, it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the art to modify the method of FTD by receiving payment for an ad in order to increase revenue.

As to claim 16, it is noted that FTD shows that the contractor (the individual florist) can customize the website to show his offerings.

As to claim 17, it is noted that upselling options are provided to the customer based on the option selected by the customer (e.g., he can select a "deluxe" or "premium" upselling option).

As to claim 18, it is noted that FTD provides webpages for access by the general public for general information of features.

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As to claim 19, FTD in view of Fino et al show all elements of the claim except exchanging product files between the builder and a third party contracting designer to create the product options. However, it is notoriously old and well known in the art to exchange files in between the builder (florist) and a third party designer in designing the website. It would have been obvious to one of ordinary skill in the art to further modify the method of FTD by exchanging product files in order to select items for inclusion in the florist's unique catalog and to prepare the format.

As to claim 20, FTD in view of Fino et al show all elements of the claims except exchanging product files among a builder, supplier and manufacturer using a common file format. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to do so in order to ensure that all actors are using the same information and to ensure file portability between the actors.

As to claims 21-26 and 29-33, it is inherent that FTD in view of Fino et al show means performing the recited steps of the claim since performing the steps is shown, as described above.

As to claim 34, FTD shows a web site provided by a third party for selecting options. It inherently shows selection and commission processors since such functionality must exist to allow customers to select and to collect the commission. FTD does not show the particular environment in which the web site is used. Fino et al show this environment, providing builder options available for selection. It would have been obvious to one of ordinary skill in the art to

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further modify the apparatus of FTD by using it in the environment of Fino et al to allow remote selection of housing options to be made without a model house.

As to claims 35-37, it is noted that FTD in view of Fino et al shows all elements of the claims.

As to claims 27, 28 and 38, FTD in view of Fino et al show all elements of the claims except a hyperlink to a manufacture. However, it is notoriously old and well known in the art to provide a hyperlink from a page where an item is being offered to a manufacture web page, for instance to provide more information on the item. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of FTD by providing a hyperlink to a manufacturer web page in order to provide further information on an item offered.

As to claim 39-42, it is noted that FTD in view of Fino et al show that the offerings comprise fixtures to be installed in the building.

As to claim 43, it is noted that FTD in view of Fino et al provides a virtual showroom of the product offerings available to the customer.

Response to Arguments

3. Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.


Steven B. McAllister

December 6, 2003